

House Study Bill 105 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON BALTIMORE)

A BILL FOR

1 An Act relating to the sentencing of a minor who commits murder
2 in the first degree, providing penalties, and including
3 effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 902.1, subsection 2, Code 2013, is
2 amended to read as follows:

3 2. ~~a.~~ Notwithstanding subsection 1, a person convicted
4 of a class "A" felony, other than murder in the first degree
5 in violation of section 707.2, and who was under the age
6 of eighteen at the time the offense was committed shall be
7 eligible for parole after serving a minimum term of confinement
8 of twenty-five years.

9 ~~b.~~ ~~If a person is paroled pursuant to this subsection the~~
10 ~~person shall be subject to the same set of procedures set out~~
11 ~~in chapters 901B, 905, 906, and chapter 908, and rules adopted~~
12 ~~under those chapters for persons on parole.~~

13 ~~c.~~ ~~A person convicted of murder in the first degree in~~
14 ~~violation of section 707.2 shall not be eligible for parole~~
15 ~~pursuant to this subsection.~~

16 Sec. 2. Section 902.1, Code 2013, is amended by adding the
17 following new subsections:

18 NEW SUBSECTION. 3. ~~a.~~ Notwithstanding subsections 1 and 2,
19 a person convicted of murder in the first degree in violation
20 of section 707.2, and who was under the age of eighteen at the
21 time the offense was committed shall receive either of the
22 following sentences:

23 (1) Commitment to the director of the department of
24 corrections for the rest of the defendant's life with no
25 possibility of parole unless the governor commutes the sentence
26 to a term of years.

27 (2) Commitment to the custody of the director of the
28 department of corrections for the rest of the defendant's life
29 with the possibility of parole after serving a minimum term of
30 confinement of fifty years.

31 ~~b.~~ At the time of sentencing, evidence concerning the
32 victim and impact that the death of the victim had on the
33 victim's family is admissible. Additionally, evidence may be
34 presented as to any other matter that the court deems relevant
35 and admissible on the question of the type of sentence to be

1 imposed at the sentencing hearing. Evidence shall include
2 matters relating to any of the aggravating or mitigating
3 circumstances specified in this paragraph "b". The court shall
4 weigh the aggravating and mitigating circumstances in each case
5 when sentencing a person under this subsection.

6 (1) The aggravating circumstances shall include but are not
7 limited to the following:

8 (a) The victim was a peace officer as defined in section
9 801.4, corrections officer, or fire fighter, whether paid or
10 volunteer, who was performing official duties at the time the
11 act resulting in the death occurred and the act resulting in
12 the death was done with the knowledge that the person against
13 whom the act was committed was a peace officer, corrections
14 officer, or fire fighter.

15 (b) At the time of the murder, the person was serving
16 a term of confinement at a state institution, escaped or
17 was attempting to escape from lawful custody, or was on
18 unauthorized leave in or from a state institution or program
19 for the incarceration or treatment of a person adjudicated
20 delinquent or convicted of a crime.

21 (c) At the time of the murder, the person was in custody
22 in a county or municipal holding facility as a consequence of
23 having been adjudicated for an act which if committed by an
24 adult would be a felony or convicted of a felony.

25 (d) The person committed murder in exchange for money or
26 anything of value.

27 (e) The person solicited another person to commit murder and
28 paid or agreed to pay money or anything of value in exchange
29 for the other person to commit murder.

30 (f) The victim was a judicial officer as defined in section
31 602.1101, a grand or petit or prospective grand or petit juror,
32 a witness in a court proceeding, a county attorney or any other
33 prosecuting attorney including an assistant county attorney, a
34 defense attorney, a juvenile court officer, or a probation or
35 parole officer, and the murder was related to the exercise of

1 the official duties performed or to be performed by the victim.

2 (g) There was more than one victim and the murders were part
3 of a common scheme or plan or the result of a single act of the
4 person.

5 (h) The murder was committed in the course of, in the
6 furtherance of, or in immediate flight from one of the
7 following crimes:

8 (i) Kidnapping in the first degree in violation of section
9 710.2.

10 (ii) Robbery in the first degree in violation of section
11 711.2.

12 (iii) Arson in the first degree in violation of section
13 712.2.

14 (iv) Burglary in the first degree in violation section
15 713.3.

16 (v) Burglary in the second degree in violation of section
17 713.5.

18 (vi) Sexual assault as defined in section 915.40.

19 (i) A no contact or protective order was in force in
20 this state or another state at the time of the murder that
21 prohibited the person from contacting the victim, and the
22 person had knowledge of the existence of the order.

23 (j) The victim was being held for ransom or reward by the
24 person, or was being used as a shield or hostage.

25 (k) The victim was a prosecutorial witness to murder or
26 another felony committed by the person, and was murdered for
27 the purpose of preventing testimony against the person in a
28 grand jury or criminal proceeding involving the murder or other
29 felony.

30 (l) The person committed murder while participating in
31 another felony.

32 (m) The person has a juvenile or criminal record involving
33 the use or threat of violence.

34 (n) The victim was under twelve years of age.

35 (o) The victim was especially vulnerable due to age or

1 mental or physical infirmity.

2 (p) The murder was committed in an especially heinous,
3 brutal, cruel, or depraved manner, or was the result of
4 torture.

5 (q) The murder was random, predatory, or arbitrary in
6 nature.

7 (r) The murder involved multiple victims.

8 (s) The murder was the result of a drive-by shooting or
9 random shooting.

10 (t) The murder was committed for the purpose of avoiding or
11 preventing a lawful arrest or effecting an escape from lawful
12 custody.

13 (u) The murder was committed by a person in, or who has
14 escaped from, the lawful custody of a peace officer or a place
15 of lawful confinement.

16 (2) The mitigating circumstances shall include but are not
17 limited to the following:

18 (a) The person has no significant juvenile or criminal
19 record.

20 (b) The murder was committed while the defendant was under
21 the influence of extreme mental or emotional disturbance.

22 (c) The victim participated in or consented to the conduct
23 of the person.

24 (d) The person was an accomplice to the murder committed
25 by another person and the participation of the person was
26 relatively minor.

27 (e) The person acted under extreme duress or under the
28 substantial domination of another person.

29 (f) The capacity of the person to appreciate the criminality
30 of the conduct or to conform the person's conduct to the
31 requirements of the law was substantially impaired.

32 NEW SUBSECTION. 4. If a person is paroled pursuant to
33 subsection 2 or 3, the person shall be subject to the same set
34 of procedures set out in chapters 901B, 905, 906, and 908, and
35 rules adopted under those chapters for persons on parole.

1 Sec. 3. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
2 immediate importance, takes effect upon enactment.

3 EXPLANATION

4 This bill relates to the sentencing of a minor who commits
5 murder in the first degree.

6 The bill modifies the sentencing options for a minor who
7 commits murder in the first degree.

8 Under the bill, a person who commits murder in the first
9 degree and who was under the age of 18 at the time the offense
10 was committed may receive a life sentence with the possibility
11 of parole after serving a minimum term of confinement of 50
12 years. The bill also provides that a person who commits murder
13 in the first degree and who was under the age of 18 at the
14 time the offense was committed may also be sentenced to life
15 in prison without the possibility of parole. Current law
16 prohibits any person who commits murder in the first degree
17 from being paroled unless the governor commutes the life
18 sentence to a term of years.

19 The bill specifies that at the time of sentencing, evidence
20 is admissible concerning the victim and the impact that the
21 death of the victim had on the victim's family. Additionally
22 under the bill, evidence may be presented as to any other
23 matter that the court deems relevant and admissible on the
24 question of the type of sentence to impose at the sentencing
25 hearing.

26 The bill lists numerous aggravating and mitigating
27 circumstances for the court to consider prior to sentencing.
28 The bill requires the court to weigh the aggravating and
29 mitigating circumstances in each case when sentencing a person
30 who was under the age of 18 at the time the murder in the first
31 degree was committed.

32 Current law provides that a person convicted of a class
33 "A" felony, other than murder in the first degree, and who
34 was under the age of 18 at the time the offense was committed
35 shall be eligible for parole after serving a minimum term of

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1 confinement of 25 years.

2 The bill takes effect upon enactment.